

## UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 2633 FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jose GAONA

Defendant.

Magistrate Case No. 2008 AUG 26 PM 2:05

COMPLAINT FOR VIOLATION OF

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Title 8, U.S.C., Section

1324(a)(2)(B)(ii)-

Bringing in Illegal Alien(s) for

Financial Gain

BY YINTX DEPUTY

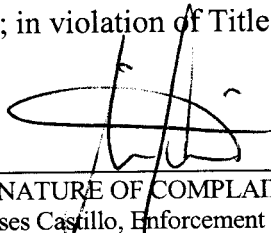
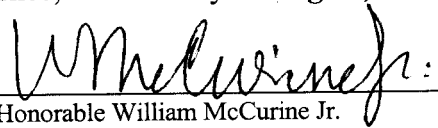
The undersigned complainant being duly sworn states:

Count 1

On or about **August 25, 2008**, within the Southern District of California, defendant **Jose GAONA**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that alien, namely, **Mireya PORRAS-Mendoza**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien for the purpose of commercial advantage and private financial gain; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(ii).

Count 2

On or about **January 16, 2008**, within the Southern District of California, defendant **Jose GAONA**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that alien, namely, **Maria HERNANDEZ-Rivera**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien for the purpose of commercial advantage and private financial gain; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(ii).

  
 SIGNATURE OF COMPLAINANT  
 Moises Castillo, Enforcement Officer  
 U.S. Customs and Border Protection
Sworn to before me and subscribed in my presence, this 26<sup>th</sup> day of August, 2008.
  
 Honorable William McCurine Jr.  
 UNITED STATES MAGISTRATE JUDGE

 RFM  
 8/26/08  
 DOA  
 8/25/08

RFM  
8/26/08**PROBABLE CAUSE STATEMENT****Count 1**

The complainant states that **Mireya PORRAS-Mendoza** is a citizen of a country other than the United States; that said alien has admitted she is deportable; that her testimony is material; that it is impracticable to secure her attendance at trial by subpoena; and that she is a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On August 25, 2008 at approximately 11:45 a.m., Customs and Border Protection (CBP) Officer apprehended a female attempting to elude inspection at the Otay Mesa, California Port of Entry. The female was apprehended between the vehicle primary lane 1 and the west employee entrance/exit of the pedestrian inspection building. The female was escorted to the Port Enforcement Team (PET).

The female was determined to being a citizen of Mexico with no entitlements to enter the United States. The female was held as a material witness and is now identified as **Mireya PORRAS-Mendoza**.

PORRAS had a personal cellular phone in her possession that was constantly ringing. PORRAS stated the person that was calling was the smuggler she was supposed to meet north of the Otay Mesa Port of Entry. A CBP Officer pretended to be PORRAS and had a phone conversation with **Jose GAONA (Defendant)**.

During the phone conversation with the CBP Officer, Defendant attempted to guide the CBP Officer through the Otay Mesa Port of Entry. Defendant gave CBP Officer specific instructions on how elude inspection and exit the Otay Mesa Port of Entry. Defendant told the CBP Officer he was wearing a yellow shirt and he would be able to see her when she approached him.

Material Witness agreed to aid officers in the apprehension of the Defendant. Material Witness was released under constructive restraint from the building and followed officers' instructions to walk north from the port of entry.

At approximately 1:00 p.m., Defendant was apprehended by CBP Officers one block north of the Otay Mesa, California Port of Entry. Defendant was approaching the Material Witness and was attempting to call Material Witness via cellular phone at the time of apprehension.

Defendant was admonished of his Miranda rights and elected to submit to questioning without benefit of counsel. Defendant was interviewed and the following videotaped declaration was obtained: Defendant admitted he had prior knowledge the Material witness was coming to the Otay Mesa Port of Entry to attempt illegal entry into the United States. Defendant admitted he was going to receive between \$200.00-\$300.00 USD to aid the Material witness in crossing into the United States illegally. Defendant admitted he had a phone conversation with a female he believed to be the Material witness and stated he was wearing a yellow shirt so Material witness could identify him once she was successful in crossing into the United States.

RFW  
8/26/08

**Probable Cause Statement continued.**  
**U.S. v Jose GAONA**

Material witness was interviewed and a videotaped statement was obtained with the following declarations: Material witness declared being citizens of Mexico with no rights to enter the United States. Material witness stated she was told by a smuggler to walk to the Otay Mesa Port of Entry and enter the pedestrian building and exit the side door. Material witness stated that a person was going to meet her in the United States and this person was going to call her cellular phone when she entered the United States. Material witness agreed to pay a smuggling fee of \$2,000.00 USD to be smuggled into the United States, payable upon her arrival in the country. Material witness stated she intended to travel to Camarillo, California.

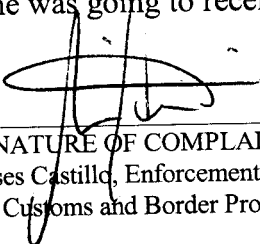
**Count 2**

On January 15, 2008, **Jose GAONA (Defendant)** made application for admission into the United States from Tijuana, Mexico at the Otay Mesa, California Port of Entry through vehicle primary. Defendant was the driver of a GMC Sierra bearing Mexico license plates. Defendant presented himself for inspection before a Customs and Border Protection (CBP) Officer who was conducting primary inspections. Defendant was traveling with other family members. Defendant presented United States passport bearing his true name and picture. The CBP Officer received two negative declarations from Defendant.

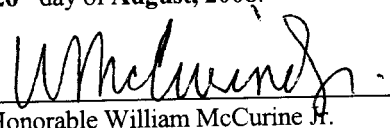
CBP Officer conducted a routine inspection of the vehicle and discovered a person concealed within the vehicle attempting to elude inspection.

The concealed alien was identified as Maria HERNANDEZ-Rivera. It was determined HERNANDEZ was a citizen of Mexico with no entitlements to enter the United States.

Defendant was admonished of his Miranda rights and elected to submit to questioning without benefit of counsel. Defendant was interviewed and the following videotaped declaration was obtained: Defendant admitted to CBP Officers he was smuggling an undocumented alien into the United States illegally. Defendant admitted he was going to receive \$1,500.00 for smuggling the undocumented alien.

  
SIGNATURE OF COMPLAINANT  
Moises Castillo, Enforcement Officer  
U.S. Customs and Border Protection

Sworn to before me and subscribed in my presence, this 26<sup>th</sup> day of August, 2008.

  
Honorable William McCurine Jr.  
UNITED STATES MAGISTRATE JUDGE